

ORDINANCE NO. 85-11

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, PROVIDING FOR LOCAL IMPLEMENTATION OF THE WATER SHORTAGE PLAN OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT; PROVIDING DEFINITIONS; PROVIDING FOR APPLICATION OF ORDINANCE; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR EMERGENCY ENACTMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a water shortage or water shortage emergency may be declared from time to time by the South Florida Water Management District affecting Palm Beach County; and

WHEREAS, during such water shortage condition the amount of surface and groundwater supplies may become insufficient to meet current or anticipated demands; and

WHEREAS, upon the existence of such conditions it becomes imperative to the public well being that certain uses of water be restricted or curtailed and that available water resources be allocated; and

WHEREAS, the South Florida Water Management District has primary responsibility under Chapter 373, Florida Statutes, for regulating water use and allocating available water supplies during periods of water shortage; and

WHEREAS, the South Florida Water Management District has adopted a "Water Shortage Plan", codified as Chapter 40E-21, Florida Administrative Code, for the purpose of allocating and conserving the water resource during periods of water shortage and maintaining a uniform approach towards water use restrictions; and

WHEREAS, the South Florida Water Management District has requested the assistance of Palm Beach County in the enforcement of the provisions of the "Water Shortage Plan"; and

WHEREAS, it is the desire of the Board of County Commissioners of Palm Beach County to provide the South Florida Water Management District with all possible assistance in the enforcement of the provisions of the "Water Shortage Plan" during a water shortage or water shortage emergency; and

WHEREAS, Section 373.609, Florida Statutes, provides that it shall be the duty of County governmental and law enforcement officials to assist the South Florida Water Management District in the enforcement of Chapter 373, Florida Statutes, and any rules adopted thereunder, upon request by the South Florida Water Management District.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that:

Section 1. INTENT AND PURPOSE

1.01 It is the intent and purpose of this ordinance to protect the water resources of Palm Beach County from the harmful effects of overutilization during periods of water shortage and allocate available water supplies by assisting the South Florida Water Management District in the implementation of its Water Shortage Plan.

Section 2. DEFINITIONS

2.01 For the purpose of this Ordinance the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

(a) "District" is the South Florida Water Management District.

(b) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.

(c) "Water resource" means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

(d) "Water shortage condition" is when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

(e) "Water shortage emergency" means that situation when the powers which can be exercised under Part II of Chapter 40E-21, Florida Administrative Code, are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses.

Section 3. APPLICATION OF ORDINANCE

3.01 The provisions of this ordinance shall apply to all persons using the water resource within the geographical areas subject to the "water shortage" or "water shortage emergency," as determined by the District, whether from public or privately owned water utility systems, private wells, or private connections with surface water bodies. This ordinance shall not apply to persons using treated effluent or saltwater.

Section 4. AMENDMENTS TO WATER SHORTAGE PLAN

4.01 Chapter 40E-21, Florida Administrative Code, as same may be amended from time to time, is incorporated herein by reference as part of the Palm Beach County Code.

Section 5. DECLARATION OF WATER SHORTAGE; WATER SHORTAGE EMERGENCY

5.01 The declaration of a water shortage or water shortage emergency within all or any part of Palm Beach County by the Governing Board or the Executive Director of the District shall invoke the provisions of this Ordinance. Upon such declaration all water use restrictions or other measures adopted by the District applicable to Palm Beach County, or any portion thereof, shall be subject to enforcement action pursuant to this Ordinance. Any violation of the provisions of Chapter 40E-21, Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this Ordinance.

Section 6. ENFORCEMENT

6.01 Every police officer or sheriff having jurisdiction in the area governed by this Ordinance shall, in connection with all other duties imposed by law, diligently enforce the provisions of this Ordinance. In addition, the County Administrator may also delegate enforcement responsibility for this Ordinance to agencies and departments

of County government, or cities in the service areas governed by this Ordinance, in accordance with state and local law.

Section 7. PENALTIES

7.01 Violation of any provision of this Ordinance shall be subject to the following penalties:

First violation	\$25.00
Second and subsequent violations	Fine not to exceed \$500 and/or imprisonment in the County jail not to exceed 60 days

Each day in violation of this Ordinance shall constitute a separate offense. In the initial stages of a water shortage or water shortage emergency, law enforcement officials may provide violators with no more than one written warning. The County, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this Ordinance.

Section 8. WATER USERS TO ACCEPT PROVISIONS OF ORDINANCE

8.01 The acceptance of water service shall be in itself the acceptance of the provisions of the Ordinance.

Section 9. ORDINANCE REPEALED

9.01 Ordinance No. 75-15 and all other ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 10. SEVERABILITY

10.01 If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 11. INCLUSION IN CODE

11.01 It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Palm Beach County Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to

1 "section," "article," or such other appropriate word or phrase in order
2 to accomplish such intentions.

3 Section 12. EFFECTIVE DATE

4 12.01 This Ordinance shall be immediately certified by the
5 Clerk of the Board to the Department of State and shall take effect upon
6 receipt of official acknowledgment to this office that it has been filed.

7 APPROVED AND ADOPTED by the Board of County Commissioners of
8 Palm Beach County, Florida, on the 14 day of May, 19 85

9 PALM BEACH COUNTY, FLORIDA, BY ITS
10 BOARD OF COUNTY COMMISSIONERS

11 By [Signature]
12 Chairman

13 APPROVED AS TO FORM AND
14 LEGAL SUFFICIENCY

15 [Signature]
16 County Attorney

17 Acknowledgement by the Department of State of the State of
18 Florida, on this, the 24th day of May, 19 85.

19 EFFECTIVE DATE: Acknowledgement from the Department of State
20 received on the 24th day of May, 19 85, at 3:44
21 P.M., and filed in the Office of the Clerk of the Board of County
22 Commissioners of Palm Beach County, Florida.